

SCHOOL FACILITIES BOARD
June 5, 2003
Show Low, Arizona

The School Facilities Board held a board meeting at the Show Low High School, 1201 North Cougar Lane, Show Low, Arizona. The meeting began at approximately 10:10 A.M.

<u>Members Present</u>	<u>Guests Present</u>
Conley, Patrice	Judy Richardson, Stone and Youngberg
Keenan, Brooks	Lyle Aldridge, Tanque Verde resident
Metz, Forrest	Hector Tahu, Tuba City USD
Van Sittert, Logan, Chair	Thomas D. Rushin, Yuma ESD
Wicks, Michael	Denise Ryan, Tanque Verde Supt.
Vicki Salazar, Superintendent's Representative (non-voting)	Sherrylyn Young, Tanque Verde Governing Board Pres.
	Kaison Kim, Tanque Verde resident
	Gregoria A. Moran, DLR Group
<u>Members Absent</u>	Stacey Williams, Tanque Verde resident
McGee, Kate	Kris Tvedt, Tanque Verde resident
Vaughan, G. Keith	Joe Schnupp, Abacus Project Mgmt, Inc.
Wright, John, Vice-Chair	Janet Tvedt, Tanque Verde resident
	Spencer Smith, DeConcini McDonald
	Carolyn Moser, Bob Rudolph
<u>Staff Present</u>	Doug Hughes, Tanque Verde USD
Edward Boot, Interim Exec. Director	Mike Seaman, Show Low Unified
Tim Brand, Facilities Deputy Director	M.J. Dillard, City of Tucson
Candy Cooley, Deputy Director of MIS	Lisa South, Tanque Verde USD
Judith Darknall, Assistant Attorney General	George Priniski, Gervasio & Associates/SSPW
Tom Halverstadt, Land Specialist	Candy Hughes, Tucson
Kristen Landry, Public Information Officer	Dave Moser, Tanque Verde Coalition and recall petition signers
Amber Peterson, School Finance Specialist	Bob Young, Dysart USD
	Tom Murphy, Dysart USD
	Terry Worcester, SSPW Architects
	Patrick McGee, SSPW Architects
	Joe Begay Tuba City Unified

Welcome

Logan VanSittert welcomed the School Facilities Board.

I. Call to Order

The Board Chair, Logan Van Sittert, called the meeting to order at approximately 10:10 A.M.

II. Roll Call

There were six Board Members present at this meeting, including Vicki Salazar of ADE, a non-voting member.

III. Approval of Minutes of May 1, 2003 Meeting

Pat Conley moved that the Board approve the Minutes for May 1, 2003. Mike Wicks seconded. Motion passed on a 5-0 voice vote.

Approval of Minutes of Executive Session of May 1, 2003 Meeting

Pat Conley moved that the Board approve the Minutes for the Executive Session of the May 1, 2003 Meeting. Mike Wicks seconded. Motion passed on a 5-0 voice vote.

IV. Director's Report

a. Deficiency Correction Update, including Qwest and Cox

This item was revised from the original board packet. This was an informational item only. The following issues were discussed.

- May 30, 2003 Status of Work and Performance
- PM Performance
- Cost Analysis
- Bid Protests
- Qwest and Cox Update

Tim Brand updated the Board on the status of deficiency projects. All of these projects will be under contract by June 30th. The last date for bids to be open is June 10th. Candy Cooley updated the Board on the status of the Qwest and Cox projects. Pat Conley felt that more information should go out to the parents, in order to spread awareness about the availability of access to the ASP for students. Ms. Cooley explained that a Cox steering committee has been formed and one of its goals will be to increase awareness of the program. Ed Boot reminded the Board that SFB staff intends to schedule two conferences for the fall which will also address these issues.

b. Open Meeting Law Issues, including Executive Session Protocol

This was an informational item only. The assistant attorney general, Judith Darknall, gave a presentation on the Open Meeting Law and its exceptions. There are three exceptions which are most likely to apply to the SFB, pursuant to A.R.S. 38-431.03, subsection A, including:

1. obtaining legal advice
2. discussing contracts or litigation issues
3. negotiating for the purchase, sale, or lease of real property

Ms. Darknall explained that legal action is not permitted during executive session. Courts have demonstrated an intent to keep these exceptions narrow, and strictly adhered to.

Mike Wicks moved that the Board go into executive session for legal advice regarding executive sessions. Forrest Metz seconded. Motion passed on a 5-0 voice vote. This session was not open to the public.

Executive Session was held from approximately 10:30 A.M. to 10:55 A.M.

Logan Van Sittert indicated that the Board may discontinue its practice of combining Executive Sessions with lunch breaks. This separation will help to keep the time spent in executive session at a minimum. Also, Ed Boot

indicated that staff will use more discretion in placing items on the agenda and providing descriptions of the agenda items so that only restricted discussions will occur in executive session.

c. Preventive Maintenance Guidelines

Tim Brand presented the Preventive Maintenance program and Preventive Maintenance Guideline Forms. The report consisted of a culmination of public workshops and district comments on the Preventive Maintenance Program, which began in September 2002. SFB staff will set up training sessions on the specific components of the program, and will attempt to make contact with districts during the reporting cycle to provide assistance if needed. Forrest Metz moved that the Board approve the SFB Preventive Maintenance Guidelines. Brooks Keenan seconded. Logan Van Sittert read part of a letter from Keith Vaughan who was not in attendance at the meeting. Mr. Vaughan expressed several concerns with the program, including the cost to school districts as well as the requirement to have governing board approval and signature. Tim Brand responded that he had spoken with many facilities people who felt strongly that the governing board president's signature was crucial. Pat Conley commended the Preventive Maintenance Committee, but reminded the Board and staff that the law requires districts to establish preventive maintenance plans, and requires the SFB to inspect the facilities. Mr. Brand explained that if districts do not start with the same basis, then SFB staff will have difficulty evaluating the buildings' conditions. He emphasized that the evaluation will not produce PASS/FAIL results, but will be a work in progress aimed at helping districts improve each year. The general consensus among Board members was that the report needs to be streamlined. Vicki Salazar indicated that one of the tasks at ADE this year is to reduce the amount of paper reporting to the State, so streamlining the report would be favorable. Brooks Keenan felt that the report needed a comprehensive narrative section. Forrest Metz commented that the guidelines are necessary to improve the useful life of schools. Logan Van Sittert indicated that the report is a starting point for a work in progress. Motion passed on a 4-1 voice vote, with Pat Conley against.

d. Legislative Update, and Accommodation Districts' Terms and Conditions

This was an informational item only. Ed Boot updated the Board on the status of proposed bills that would affect the SFB and Students FIRST. HB 2012 has been vetoed by the Governor, but will return as part of the budget bill. The Governor is supporting full funding of the building renewal formula based on the proposed formula changes. HB 2096 is a punitive bill sponsored by the legislature, aimed at withholding building renewal disbursements from any districts that do not fulfill their expenditure reporting requirements. HB 2091 has been signed by the Governor, and accomplishes the following: corrects last year's project management requirement for new construction projects, does away with language on "quality products", requires districts to use excess project funds within one year on the SFB new construction project or else it reverts to the SFB, requires accommodation districts to receive SFB approval before disposing of property, reinstates districts' abilities to use alternative delivery methods, allows the SFB to divert New School Facilities Fund monies to the "Litigation Account" aimed at recouping deficiency expenditures caused by construction or design defects

that deficiency funds were used to correct, and adds the "Qualified Select Bidders List" to the types of Alternative Delivery Methods allowed to be used by school districts for procurement of construction. Pat Conley asked if this bidders list applies only to SFB work, to which Mr. Boot replied, "No, only to school district contracts."

- e. Transfer from New School Facilities Fund to Deficiency Corrections Fund
Mike Wicks moved that the Board approve staff recommendation to transfer up to \$89,000,000 from the New School Facilities fund to the Deficiency Correction Fund. Pat Conley seconded. Motion passed on a 5-0 voice vote.

- f. APDM Task Force Recognition
Ed Boot presented an example of a certificate of appreciation which will be presented to each of the Alternative Project Delivery Method Task Force members. The Task Force developed the draft rules that have been sent to the Arizona State Board of Education, who are statutorily responsible for the writing of the rules. Members include:

Christy Farley, State Board of Education
Gary Aller, Arizona State University
John Adler, State Procurement Office
Bill Johnson, Scottsdale Unified School District
Dirk Walters, Deer Valley Unified School District
Jeanette Polvani, Chandler Unified School District
Ron Richards, Pendergast Elementary School District
Alan Torvie, OPUS
Wiley Bearup, City of Phoenix
Joan Kiteley, SFB
Richard Dern, SFB
David Young, SFB Consultant

Mike Wicks moved that the Board recognize the APDM Task Force. Brooks Keenan seconded. Motion passed on a 5-0 voice vote.

V. Assessment Deficiencies

- a. Consideration of Funding Supplemental Assessment Deficiency Projects from the Deficiencies Correction Fund
Brooks Keenan moved that the Board approve the staff recommendation to approve the assessment deficiency projects, which will be eligible for funding from the Deficiencies Correction Fund. Forrest Metz seconded. Motion passed on a 5-0 voice vote.
- b. Consideration of Assessment Deficiency Projects review, bids, bid packages, and expansion of change orders
Expansion of Scope
There were no districts listed under this agenda item.
- c. Consideration of Ratification of CM @ Risk Contracts, GMP applied and Purchase Orders Issued

Forrest Metz moved that the Board ratify the CM @ Risk contracts for the School Facilities Board and the districts and vendors listed under agenda item V.c. Mike Wicks seconded. Motion passed on a 5-0 voice vote.

- d. Consideration of Ratification of Contracts for Deficiency Corrections Projects
Brooks Keenan moved that the Board ratify the contract awards for the School Facilities Board and the districts and vendors listed under agenda item V.d. Mike Wicks seconded. Motion passed on a 5-0 voice vote.

- e. Consideration of Ratification of Change Orders for Deficiency Corrections Projects

Ed Boot explained that Deputy Director Tim Brand discovered an obscure section of law which requires change orders over ten percent or over \$100,000 to be signed by the Department of Administration. SFB staff was previously unaware of this law, but as of May 12th staff began sending change orders with those characteristics to the Department of Administration. Brooks Keenan asked if the SFB was in disregard of this law while the Board was exempt from the procurement laws. Ed Boot replied that the answer to that question is unknown at this time. Brooks Keenan moved that the Board ratify the change orders for the districts and vendors listed under agenda item V.e. Forrest Metz seconded. Motion passed on a 5-0 voice vote.

- f. Consideration of Other Deficiency Correction Issues – Definition of “Commenced”

Ed Boot discussed the deficiency correction law (§15-2021) which prohibits the SFB from expending money on projects that are not commenced by June 30, 2003. He explained that three deficiency corrections projects are being expanded and completed by districts, and contracts for the SFB portions will not be awarded by that date. Therefore, staff is recommending that the Board adopt the following definition of “commenced”:

A project is “commenced” if:

Either the SFB or the governing school district has signed a contract for the construction phase of the project or in the case of equipment purchased separate from any other project, issued a purchase order for the equipment.

Or

If the project meets all of the following:

1. The project is combined with district-funded work approved by the SFB.
2. The SFB funding is less than 50 percent of the total project.
3. The District has agreed to contract for and manage the entire project.
4. The nature of the SFB project is changed by the district (i.e. to new space).

5. If the District has used an alternative project delivery method they have signed a pre-construction agreement.
6. And the District has initiated a contract for at least part of the construction phase of the total project.

Pat Conley moved that the Board approve the staff recommendation for a definition of "commenced." Forrest Metz seconded. Motion passed on a 5-0 voice vote.

Consideration of Other Deficiency Correction Issues – Emergency Deficiency Project – Tuba City Unified

Forrest Metz moved that the Board approve the staff recommendation to approve an emergency deficiency project for the Tuba City Unified District, and provide funding in the amount of \$7,287,661. Mike Wicks seconded. Brooks Keenan agreed with the staff recommendation, but noted that this type of construction should have lasted longer than it did. George Priniski from Gervasio and Associates agreed with Mr. Keenan that this type of structure normally lasts many years, but this particular structure has been exposed to the elements for thirty years. Pat Conley expressed concern about setting a precedent for future emergency deficiency correction requests, and asked if staff's definition of emergency would only apply to Guidelines-related issues. Ed Boot replied that emergency deficiency requests should generally be related to the Guidelines, but each request will be looked at on a case-by-case basis. Forrest Metz asked if the demolition for Tuba City included the entire facility (structure and roof). Ed Boot explained that the entire facility (including roof) will be demolished, but the district will pay for the re-roofing of the swimming pool. Logan Van Sittert did not believe that a precedent would be set by the approval of this project. Motion passed on a 5-0 voice vote.

VI. New School Construction

a. Consideration of 2003 Capital Plan New Construction Requests

There were no districts listed under this agenda item.

b. Consideration of New Construction Projects Review, Bids, Bid Packages and Change Orders, and Expansion/Change of Scope and Increased Project Cost

Mike Wicks moved that the Board approve the staff recommendation for the following projects:

1. Approve Cartwright Elementary District's request to go to bid on a School Facilities Board project in the amount of \$931,500 for K-6 elementary school square footage, project number 070483000-9999-214N.
2. Approve Cartwright Elementary District's request to go to bid on a School Facilities Board project in the amount of \$1,612,054 for K-6 elementary school square footage, project number 070483000-9999-006N.
3. Approve Cartwright Elementary District's request to go to bid on a School Facilities Board project in the amount of \$3,126,596 for a 6th grade elementary school, project number 070483000-9999-004N.

4. Approve Cartwright Elementary District's request to go to bid on a School Facilities Board project in the amount of \$3,179,836 for a 6th grade elementary school, project number 070483000-9999-005N.
5. Approve Chandler Unified District's request to go to bid on a School Facilities Board project in the amount of \$2,991,853 for a K-6 elementary school, project number 070280000-9999-003.
6. Approve Chandler Unified District's request to go to bid on a School Facilities Board project in the amount of \$2,991,853 for a K-6 elementary school, project number 070280000-9999-007N.
7. Approve Dysart Unified District's request to go to bid on a School Facilities Board project in the amount of \$9,175,320 for a K-8 elementary school, project number 070289000-9999-006N.
8. Approve Liberty Elementary District's request to go to bid on a School Facilities Board project in the amount of \$6,383,493 for a K-8 elementary school, project number 070425000-9999-211N.
9. Approve Liberty Elementary District's request to go to bid on a School Facilities Board project in the amount of \$921,047 for additional K-8 elementary school square footage, project number 070425000-9999-002N.
10. Approve Patagonia Union High School District's request to go to bid on a School Facilities Board project in the amount of \$6,011,356 for a 9-12 high school, project number 120520000-9999-001N with additional funding of \$969,737 for specific site conditions and other construction issues.
11. Approve Tolleson Union High School District's request to go to bid on a School Facilities Board project in the amount of \$26,794,598 for a 9-12 high school, project number 070514000-9999-211N.
12. Approve Union Elementary District's request to go to bid on a School Facilities Board project in the amount of \$2,005,860 for the buildout of a core K-8 elementary school, project number 070462000-9999-001N.

Brooks Keenan seconded. Motion passed on a 5-0 voice vote.

Tanque Verde Unified, including District Litigation Update

Ed Boot reviewed the results of a ruling by a judge, which indicate that the district violated the Open Meeting Law. Staff's recommendation was to postpone consideration of the GMP award until the August SFB meeting. The following people spoke in opposition of proceeding with the approval of the GMP:

- Carolyn Moser (on behalf of herself and Bob Rudolph)
- Dave Moser requested that the SFB deny funding for the high school or least table the issue until December. He reminded the Board that the district had violated the Open Meeting Law.

The following people spoke in favor of proceeding with the approval of the GMP:

- Lyle Aldridge, Lawyer from Gabroy, Rollman, and Bosse who has intervened on behalf of several angry residents, and demanded that the judge's rulings be reexamined. He urged the Board to approve the GMP. He stated that the district is being denied space which it is legally due.

- Lisa South, District Governing Board Clerk urged the Board to approve the GMP allowing the district to move forward with building a high school.
- Denise Ryan, District Superintendent requested that the Board approve the GMP.
- Sherylln Young, District Governing Board President asked the Board to approve the GMP. She indicated that delaying approval until August could set the project back an entire year due to complications with a bond election.
- Kim Kaison, Tanque Verde parent informed the Board that tuitioning out students hinders the district's ability to control monetary costs, and indicated that the district may become bankrupt if it cannot build a high school.
- Kris Tvedt, Tanque Verde parent urged the Board to approve the GMP.
- Stacey Williams, Tanque Verde parent urged the Board to approve the GMP.
- Janet Tvedt, Tanque Verde parent explained to the Board that if this school is not built, her children will have to attend high school in another district, and she will not be allowed to vote on issues that affect them as she is a resident of Tanque Verde.
- Spencer Smith, Lawyer from Deconcini McDonald disagreed with three of the four options provided by SFB staff to the Board members. He urged the Board to approve the GMP.

Forrest Metz moved to accept staff recommendation to table consideration of the GMP award until the August SFB meeting. Mike Wicks seconded. Forrest Metz moved that the Board go into executive session to obtain legal advice. Pat Conley seconded. Motion passed on a 5-0 voice vote. This session was not open to the public.

Executive Session was held from approximately 12:55 P.M. to 1:10 P.M.

Following the executive session, Pat Conley commented that the perception from the outside is that this is a dysfunctional district. She urged the district and members of the Tanque Verde community to remove some of their emotions and begin to find common ground. The motion passed on a 4-1 voice vote with Pat Conley against.

The Board recessed from approximately 1:10 P.M. until 1:20 P.M.

- c. Expansion/Change of Scope and Increased Project Cost
There were no districts listed under this agenda item.
- d. Consideration of Other New Construction Issues
There were no districts listed under this agenda item.

Mike Wicks moved that the Board go into executive session for the purpose of discussing land issues and to seek legal advice if necessary. Forrest Metz seconded. Motion passed on a 5-0 voice vote. This session was not open to the

public.

Executive Session was held from approximately 1:20 P.M. to 1:40 P.M.

VII. Consideration of Request for Land or Real Property Purchase, Lease, or Donation, including requests from:

a. Steps I and/or II

Dysart Unified

Pat Conley moved that the Board Accept Staff recommendation to approve Dysart Unified School District's request for a K-8 elementary school site (project number 070289000-9999-015L) and move to Step III. Forrest Metz seconded. Motion passed on a 5-0 voice vote.

Dysart Unified

Pat Conley moved that the Board Accept Staff recommendation to deny Dysart Unified School District's request for a K-8 elementary school site (project number 070489000-9999-016L) and move to Step III, as amended to proceed with obtaining an appraisal for Step III. Forrest Metz seconded. Motion passed on a 5-0 voice vote.

Yavapai Accommodation

Brooks Keenan moved that the Board Accept Staff recommendation to approve Yavapai County Accommodation School District's request for a 9-12 high school site (project number 130199000-9999-002L) and move to Step III. Forrest Metz seconded. Motion passed on a 4-0-1 voice vote with Pat Conley abstaining.

b. Step III

There were no districts listed under this agenda item.

c. Consideration of Other Land Related Issues

Tanque Verde Unified

Forrest Metz moved that this item be tabled until the August SFB meeting. Mike Wicks seconded. Motion passed on a 4-1 voice vote with Pat Conley against.

VIII. Replenishment of Contingency Funds for Packages including:

Brooks Keenan moved that the Board approve the staff recommendation to approve the supplemental contingency funds for packages A, B, D, E, F, G, H, I, K, L, M, N, O, P and Q in the amount of \$14,015,547.40. Mike Wicks seconded. Motion passed on a 5-0 voice vote.

IX. Request for Reduction of Square Footage

There were no districts listed under this agenda item.

X. Request for Waiver from Guidelines

Apache Elementary

Candy Cooley explained that the district has a computer system which is only one-year old and exceeds the requirements of SFB Guidelines. Qwest has concurred that the district's existing system satisfies the Guidelines. Forrest Metz moved that the Board approve the staff recommendation to accept the

waiver request from Apache Elementary School District for a Computer Network at Apache Elementary school. Mike Wicks seconded. Motion passed on a 5-0 voice vote.

- XI. Finance Report, including Update on \$32.8 million Bond Issuance
This was an informational item only. Ed Boot updated the Board on the status of the three funds (Building Renewal, New School Facilities, and Deficiencies Correction). The recent bond issuance is already spent and that is why staff requested a transfer of funds in Agenda Item IV.e.
- XII. Future Agenda Items
The June 30th SFB meeting will be at 2:30 P.M.
- XIII. Public Comment
None

Adjournment

There being no further business Board Chair, Logan Van Sittert, adjourned the meeting at approximately 1:55 P.M.

Approved by the School Facilities Board on _____, 2003

Logan Van Sittert, Chair